

IN THE HIGH COURT OF KARNATAKA AT BANGALORE.

Dated this the 2nd day of June 1998

Before

THE HON'BLE MR. JUSTICE KUMAR RAJARATNAM

WRIT PETITION No. 15736 OF 1998.

Between:

Mallikarjunappa Maraveerappa
Kalappanavar, Major, Chairman
Vyavasaya Seva Sahakari Sangha
Niyamitha, Kummur Tq. Byadagi,
Haveri Dist. .. Petitioner.

(By Sri Jayakumar S. Patil, Advocate for
Sri Amruthesh N.P. Advocate)

And:

1. State of Karnataka by its
Secretary to Government
Department of Co-operation
M.S. Buildings, Bangalore-1.
2. Deputy Registrar of Co-op.
Societies, Dharwad District
Dharwad.
2. Asst. Registrar of Co-op
Societies Haveri Taluk
& District Haveri.
4. Vyavasaya Seva Sahakari Sangha
Kummur Tq. Byadagi, Dist. Haveri.
5. Nananagouda Veerana gouda Patil
Major, Agriculturist Nellikoppa
Grama, Tq. Byadagi, Dist. Haveri.
6. Sri S.S. Patil, Hon'ble Minister
for Co-operation, Vidhana Soudha
Bangalore-1. .. Respondents.

(By Sri B. Veerappa, HCGP)

This Writ Petition is filed under Articles 226 & 227 of the Constitution of India praying to quash the impugned Resolution by R-5 at Annexure E dated 20-4-98 and the meeting notice at Annexure N dated 25-5-98 and direct 1st and 2nd respondents to take action against R-3 for passing order at Annexure M.

This Writ Petition is coming on for Prly. hearing this day, the Court made the following:

O R D E R.

1. The petitioner is the director and the Chairman of the fourth respondent- Society. He was elected as the Chairman of the fourth respondent society on 13-1-1997. On 24-3-1997 the registration of the society was cancelled and the second respondent sought to amalgamate the society with another society.

2. This amalgamation was challenged in this Court. The Division Bench of this Court by an order dated 4-2-1998 set aside the amalgamation order and directed the first respondent to pass orders to reconstitute the society in accordance with law. This society was again brought into

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existence by Annexure 'C' by an order dated 31-3-98. The legal inference is that the office bearers including the petitioner assumed their respective positions in the society.

3. The petitioner ^{who} is the president ~~who~~ called for a meeting on 14-4-1998 as per Annexure 'D'. Some transactions took place at the meeting on 14-4-1998. A second meeting was called by the petitioner in his capacity as the chairman on 20-4-1998. Certain transactions ^{also} took place as per ~~the~~ agenda. In the last item ^{of} any other subject "curiously a no confidence motion was passed against the petitioner. It is common ground that the petitioner's term is for one year with effect from 31-3-1998.

4. Mr. Jayakumar S. Patil, learned counsel for the petitioner strenuously submitted that the no confidence motion passed at the board meeting is a nullity and being aggrieved by the no confidence motion he raised a dispute in Enquiry No.1/98-99. The letter addressed by the third respondent is placed before me.

5. The letter addressed by the third respondent at Annexure 'G' reads as follows:

No.Sa N.16 RSR:XMC:192/98

Office of the
Assistant Registrar of
Co-operative Societies,
Sub-Division, Haveri.

Date : 22-4-1998.

To

The Secretary
Kummur Vyvasaya Seva Sahakara
Sangha Niyamitha,
Kummur Tq:Bydagi.

Subject: With the permission of the
President the Motion moved/
Resolution passed on 20-4-1998
by the Board of Director, mov-
ing no-confidence motion
against the Chairman and subse-
quently changed the Chairman.

Ref Your letter dt: 21-4-1998.

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With reference to the above subject cited
in your reference letter dt: 21-4-1998, perused
the referred letter and in Karnataka Co-operative
societies Act, there is no provision with regard
to the moving of 'no-confidence motion'. This
is for your information.

Sd/-
Asst. Registrar of Co-
operative Societies, Sub-
Division, Haveri. "

6. While the dispute was pending and while
the learned counsel for the petitioner was absent
an order was sought to be made in the dispute at
Annexure 'A'. Curiously the order was passed by
the third respondent who issued Annexure 'G'.

7. In his interim order the third respondent directed the election of the president without waiting for the orders of the president and within three days a meeting was to be called for regarding election of the new president. This order was passed on 26-5-1998. Although the order appears to be a final order in the operative portion of the order it is stated that this is an interim order. Against the interim order at Annexure 'M' passed by the third respondent, there is a revision available under Section 107 to the Tribunal. When there is an alternative and efficacious remedy available it would be proper to direct the petitioner to file a revision in accordance with law.

8. Accordingly, the petitioner is directed to file a revision against the interim order at Annexure 'M' dated 26-5-1998. In view of the reasons given by the third respondent at Annexure 'G' holding that there is no provision with regard to moving of no confidence motion, there will be an interim stay of Annexures 'M' and 'N' (notice for calling for the meeting) for a period of four weeks to enable the petitioner to move the Tribunal under Section 107 of the Karnataka Co-operative Societies Act.

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9. With these observations, this writ petition is disposed of. ~~No order as to costs.~~ "

Sd/-
JUDGE

